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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/721,490

11/25/2003

Frank Michael Scholz

2003P04752 US01

6040

7590

12/07/2006

Elsa Keller
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EXAMINER

NGUYEN, TAN D

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,490

Applicant(s)

SCHOLZ, FRANK MICHAEL

Examiner

Tan Dean D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: adding the language of claims 1-12 into the specification.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art, marketing business person with several years in consumer monitoring services management.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 1-4, 5-8, and 9-12 are rejected under 35 U.S.C. 103(a) as obvious over (1) ORA Electronics in view of (2) www.adt.com.**

As of 11/25/03, claim 1 is as followed:

1. A method of implementing an emergency response system, comprising the steps of:

(a) selling an end user a cellular communications package that includes emergency services;

(b) providing said end user access to a cellular communications network as part of the cellular communications package; and

(c) using at least a portion of the revenue collected from the cellular communications package to fund a safety control center that receives emergency signals conveyed from the location of the end user through an emergency network and contacts an emergency entity in response to the emergency signal to provide said emergency services.

As for independent method claim 1, on the 1st page, ORA Electronics discloses a method of implementing an emergency response system, comprising the steps of:

(a) selling an end user a cellular communication package that includes emergency service;

(b) providing the end user (member) access to a cellular communications network as part of the cellular communications package; and

(c.) receiving emergency signals (when pressing the green button of Rescue Mate attached to the cellular telephone) conveyed from the location of the end user through an emergency network and contacts an emergency entity (dispatch one of the

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14,000 service vehicles to the stranded motorist”) in response to the emergency signal to provide the emergency service (road side service for stranded motorist) {see page 1}.

As for the (a) step of “selling an end user a cellular communications package that includes emergency services”, this is inherently included in the teachings of ORA Electronics when the user purchases and subscribes the cellular telephone service with the Rescue Mate system (\$119.95). Note the last line “*ORA Electronics is a supplier of cellular, PCS, and wireless peripherals, accessories, and enhancement products*”.

Alternatively, since it’s well known that cellular communication packages are sold to users for monthly service, it would have been obvious to a skilled artisan to carry out this step in ORA Electronics. Therefore, ORA Electronics teaches the claimed invention except for explicitly showing that at least a portion of the revenue (charges) collected from the cellular communications package to fund a safety control center that receives the emergency signals from the stranded motorist and then contacts 1 of the 14,000 service vehicles or dispatches to the stranded motorist for road side assistance service or from the user to the 911 operator when activating the red 911 button.

Www.adt.com is cited to show **well known** teachings/concept of emergency response system and service (monitoring and notification service/system) or business practice whereby a user pays a fee or buys a service in a package that includes an emergency service to a company (ADT), the company uses at least a portion of the revenue collected from the package to fund a safety control center (alarm monitoring center) that receives emergency signals conveyed from the location of the end user through an emergency network and contacts an emergency entity (police department,

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fire department, etc.) in response to the emergency signal to provide the emergency service {see page 1 (1.) and page 4 (18.)}.

It would have been obvious to modify the teaching of ORA Electronics to include well known teachings of emergency response system and service (monitoring and notification service/system) whereby a user pay a fee or buy a service in a package that includes a emergency service to a company (ADT), the company use at least a portion of the revenue collected from the package to fund a safety control center (alarm monitoring center) that receives emergency signals conveyed from the location of the end user through an emergency network and contacts an emergency entity (police department, fire department, etc.) in response to the emergency signal to provide the emergency service {see page 1, item (1.) and page 4, item (18.)} as taught by www.adt.com above as mere using well known business practice for paying a service of monitoring and notification service/system.

As for dep. claim 2 (part of 1 above), which deals with well known emergency entity parameters, i.e. special service provider, this is non-essential to the scope of the claimed invention and is taught in ORA Electronics (service vehicle) or www.adt.com (fire or police department), absent evidence of unexpected results.

As for dep. claim 3 (part of 1 above), which deals with well known fee or charges structures, i.e. a fee for additional use of the cellular communications packages charges for additional use of the cellular communications network, this is inherently included in the teaching of ORA Electronics or would have been obvious to do so to pay

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for the service used. As for the other non-essential teaching of funding the safety control center, this is inherently included or taught in www.adt.com.

As for dep. claim 4 (part of 1 above), which deals with well known communication exchange between the user and the safety control center (alarm monitoring center), by obtaining localization information from a carrier, this is inherently in ORA Electronics or www.adt.com, page 6, item (22. or 4.).

As for independent method claims 5 and 9, which have similar limitations as in independent method claim 1 above, they are rejected for similar reason set forth in the rejection of claim 1 above.

As for dep. claims 6-8 (part of 5 above) which have similar limitations to **dep. claims 10-12** (part of 9 above), respectively, these claims have the same limitations as in dep. claims 2-4 above, and are therefore rejected for the same reasons set forth in dep. claims 2-4 above.

Response to Arguments

5. Applicant's arguments filed 9/25/06 have been fully considered but they are not persuasive.

6. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Both references deal with consumer services management includes emergency response feature and the difference in the type of service, communication vs.

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monitoring, is not essential and within the knowledge of a skilled artisan, service manager or business person, with several years of marketing and service experience. In other word, these are merely business steps/ways to provides service with emergency features to consumer and would work for variety or types of services, i.e. communication, monitoring, etc, absent evidence of unexpected results.

7. Applicant's comment about the land telephone lines in ADT and the cellular communication in ORA Electronics would contrast each other is noted, however, this is not found persuasive since ADT is merely cited for the teaching of the funding aspect as cited in the rejection of claim 1 above and not the type of phone system used. This is considered as attacking references individually where the rejections are based on combinations of references.

8. Applicant's comment that ORA Electronics fails to teach step (a) of "a cellular communication package" and only sells "plug-and play speaker phone" which is merely an accessory for a cellular phone is noted, this is not found persuasive in view of the general teachings on page 1 and the last sentence "*ORA Electronics is a supplier of cellular, PCS, and wireless peripherals, accessories, and enhancement products*".

Clearly, the feature of "selling a cellular communication package" is inherently included in the business system of ORA Electronics or would have been obvious to sell the cellular communication package along with the emergency service using the "Rescue Mate" to provide complete communication service.

9. In response to applicant's argument that the references is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's

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endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both references dealt with well known consumer services with emergency response feature and the difference in the type of service, communication vs. monitoring, is not essential and within the knowledge of a skilled artisan, service manager or business person, with several years of marketing and service experience. In other word, these are merely business steps/ways to provides service with emergency features to consumer and would work for variety or types of services, i.e. communication, monitoring, etc, and would have been obvious to implement a funding feature teaching in the monitoring service to communication service with monitoring feature.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) US 6,563,910 discloses an emergency response information distribution.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

No claims are allowed.

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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

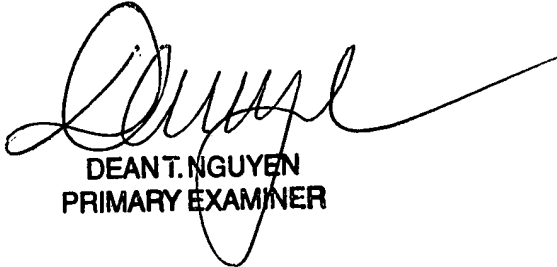
In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail CustomerService3600@uspto.gov.

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss can be reached at (571) 272-6812.

The main FAX phone numbers for formal communications concerning this application are **(571) 273-8300**. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn
December 4, 2006



DEAN T. NGUYEN
PRIMARY EXAMINER